

SETTLEMENT AGREEMENT

I. Introduction.

This Settlement Agreement (“Agreement”) is hereby entered by and between Elliott’s Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group (collectively, the “Company” or “EOH”) and the named Plaintiff, Andrew Westphal (“Plaintiff”), who is acting both individually and in his capacity as the proposed class representative for the proposed settlement class defined herein and in the proposed class action entitled *Andrew Westphal v. Elliott’s Oyster House, et al.*, King County Superior Court Civil Case No. 22-2-00876-8 SEA (the “Case”).

II. Class Certification.

Solely for the purposes of this Settlement, Plaintiff and EOH (hereafter, the “Parties”) agree that this Case should be certified and finally adjudicated as a class action on behalf of the Settlement Class defined herein.

III. Investigations and Due Diligence.

The Parties have conducted substantial formal and informal discovery and investigation of the facts and the law during their respective prosecution and defense of this Case. As part of this review and investigation, the Parties and their counsel have (a) interviewed witnesses; (b) collected and analyzed extensive electronic and paper time records, payroll data, financial documents, and other information concerning the composition of the Settlement Class and the merits and possible extent of Plaintiff’s claims and EOH’s defenses; and (c) amply considered and analyzed their respective claims and defenses.

IV. Settlement Negotiations.

The Parties engaged in settlement negotiations between January 2022 and the date of this Agreement. All of the Parties’ settlement negotiations have been conducted in good faith and at arm’s length. Through the Parties’ investigations and communications, the Parties have reached a class action settlement of this Case that they believe to be fair, adequate, and reasonable, and that Plaintiff believes is in the best interest of the proposed Settlement Class. This Agreement memorializes the terms of the final Settlement agreed to by the Parties as the result of the negotiations just described.

V. EOH’s Denials of Wrongdoing and Non-Admission of Allegations.

EOH has denied and continues to deny each of the claims and contentions alleged by Plaintiff on his own behalf and on behalf of any members of the proposed class alleged by Plaintiff in the Case. EOH has asserted, and continues to assert, defenses and objections to the proposed maintenance of this Case as a class action as if it were to proceed through litigation instead of settlement. Furthermore, EOH has expressly denied, and continues to deny, any wrongdoing or legal liability arising out of any of the facts or conduct alleged in this Case. Neither the Settlement, this Agreement, or any document referred to or contemplated herein—nor any action taken to carry out this Agreement—is, may be construed as, or may be used as an admission, concession or indication by or against EOH of any fault, wrongdoing, or liability whatsoever. EOH expressly denies any such fault, wrongdoing, or liability. If the Parties had not reached the Settlement, then

EOH would have continued to vigorously defend against Plaintiff's claims, including seeking denial of full or partial class certification and a full defense verdict at trial. EOH agrees to this Settlement solely to avoid the burden and expense of further litigation.

VI. Stipulated Settlement and Dismissal

NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, subject to the approval of the Superior Court, that this Case is hereby being compromised and settled on a class action basis pursuant to the terms and conditions outlined in this Agreement and that, if the Parties' Settlement is finally approved by the Superior Court, this Case shall be fully dismissed on the merits and with prejudice, subject to the following terms and conditions:

1. Definitions.

a. **"Effective Date"** means the date when both (1) the Settlement has been finally approved by the Superior Court, and (2) the Superior Court's anticipated order approving the Settlement and dismissing this Case with prejudice (the "Final Judgment") becomes final. For purposes of this subsection, the Superior Court's Final Judgment "becomes final" upon the later of either (a) thirty one (31) days following the Superior Court's entry of an order granting final approval of the Settlement; or (b) if an appeal is timely filed or other appellate review is sought, the date the Mandate or other final affirmance is issued by the appellate court affirming the Final Judgment.

b. **"Settlement"** means the settlement reached by the Parties through the negotiation process described in Paragraph IV above.

c. **"Settlement Administrator"** means CPT Group, Inc., subject to the Superior Court's approval.

d. **"Settlement Class Period"** means the period from January 18, 2019, through and including December 31, 2019.

e. **"Proposed Class"** or **"Proposed Class Members"** means all individuals who resided in Washington State and who were employed by EOH as a non-exempt, hourly restaurant worker (including front of house and/or back of house positions) at an Elliott's Oyster House restaurant in Washington state at any time during the Settlement Class Period. EOH represents that there are approximately 227 Proposed Class Members.

f. **"Settlement Class"** or **"Settlement Class Members"** means all Proposed Class Members, exclusive of any person who timely opts out of the Settlement pursuant to the procedures set forth below. All persons who timely opt out from the Settlement in conformity with this Agreement shall not be bound by the terms of this Agreement or any Final Judgment entered by the Superior Court, and shall retain the right to pursue (or not pursue) any alleged individual claim(s) against EOH in a separate action.

g. The **"Notice of Settlement"** means the form attached hereto as **Exhibit A**.

h. The **"Initial Mailing Date"** is the date the Settlement Administrator first mails the Notice of Settlement approved by the Superior Court to all Proposed Class Members.

- i. The “**Notice Deadline**” is sixty (60) days after the Initial Mailing Date.
- j. “**Class Counsel**” means Tatiana Hernandez of Law Office of Tatiana Hernandez, P.C., and Craig Ackermann and Brian Denlinger of Ackermann & Tilajef, P.C., subject to the Superior Court’s approval.
- k. “**Class Fund**” means the aggregate, gross amount the Parties propose be paid to the Settlement Class as Settlement Awards pursuant to this Settlement. The Class Fund shall be calculated by subtracting the Court-approved Service Award, Settlement Administration Expenses Award, and Attorney’s Fees and Costs Award from the Maximum Settlement Amount.
- l. “**Class Portion**” means the aggregate, gross amount the Parties propose be paid to all Settlement Class Members as Settlement Awards based on the number of hours worked during the Settlement Class Period. The Class Portion shall be one-third (.333) of the Class Fund.
- m. “**Service Charge Portion**” means the aggregate, gross amount the Parties propose be paid only to the “front of house” Settlement Class Members (i.e., the Settlement Class Members who were employed in the position of server, bartender, server assistant, or any similar front of house position) based on the number of hours worked during the Settlement Class Period. The Service Charge Portion shall be two-thirds (.667) of the Class Fund.
- n. “**Settlement Awards**” means the amounts the Parties propose be paid to members of the Settlement Class pursuant to this Agreement.
- o. “**Service Award**” means the amount the Parties propose be paid to Plaintiff as a service award in recognition of his efforts in prosecuting the Case. Subject to approval by the Superior Court, the amount paid to Plaintiff for his service award shall be Five Thousand Dollars (\$5,000.00).
- p. “**Settlement Administration Expenses Award**” means the amount the Parties propose be paid to the Settlement Administrator for the processing of the Settlement. Subject to approval by the Superior Court, the amount paid to the Settlement Administrator for the processing of the Settlement shall be up to Seven Thousand Dollars (\$7,000.00).
- q. “**Attorney’s Fees and Costs Award**” means the amounts the Parties propose be paid to Class Counsel as attorney’s fees and costs in connection with their prosecution and settlement of the Case. The proposed award for attorney’s fees is thirty percent (30%) of the Maximum Settlement Amount, or Twenty Three Thousand, Two Hundred and Fifty Dollars (\$23,250.00). The proposed award for costs incurred by Class Counsel is up to Five Thousand Dollars (\$5,000.00). The proposed amounts the Parties propose be paid to Class Counsel as attorney’s fees and costs are subject to approval by the Superior Court.
- r. “**Maximum Settlement Amount**” means the maximum amount EOH may be required to pay pursuant to this Settlement, which is the sum of Seventy Seven Thousand, Five Hundred Dollars (\$77,500.00), excluding any of EOH’s employer-side share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes. In no event shall the Maximum Settlement Amount exceed the foregoing sum.

s. **“Released Claims”** means any and all claims, whether known or unknown, that were brought or that could have been brought based on any facts alleged in the Case with respect to a failure to provide rest breaks or a failure to properly disclose automatic fees and/or pay employees all tips, service charges, and automatic fees. The Released Claims specifically include, but are not limited to, any claims arising out of or relating to any alleged failure to properly disclose any “Service Charge[s]” (as that phrase is defined in RCW 49.46.160(2)(c)), any failure to properly pay or distribute any tips, automatic fees, or service charges, any alleged missed, interrupted, shortened, untimely, unpaid, and/or non-compliant rest breaks, and any attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary damages, and attorney’s fees and costs relating to any of the foregoing.

t. **“EOH”** as used in this Agreement, and as released through the Releases described in Section VI.2., below, includes the named Defendants in the Case, Elliott’s Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group, as well as each of their past, current, or future successors and assigns, together with each of their respective parent companies, subsidiaries, related or affiliated companies, members, shareholders, owners, officers, directors, employees, agents, attorneys, and insurers, along with any other individual or entity who could be jointly or severally liable for any of the claims alleged in the Case or released by this Agreement.

2. Releases.

a. As of the Effective Date, Plaintiff Andrew Westphal shall be deemed to have released and forever discharged EOH from any and all Released Claims (as defined above in Section VI.1.q.), and, in addition, shall be deemed to have released EOH from any and all claims, demands, rules or regulations, or any other causes of action of whatever nature, whether known or unknown, which he has or may have against EOH as of the date of execution of this Agreement. For the avoidance of doubt, and to the maximum extent permitted by law, the foregoing release includes, without limitation, any claim, dispute, or controversy relating to, sounding in, or arising under: (i) Title VII of the Civil Rights Act of 1964; (ii) The Age Discrimination in Employment Act of 1967 (“ADEA”); (iii) The Occupational Safety and Health Act; The National Labor Relations Act, to the extent permitted by law; (iv) The Consolidated Omnibus Budget Reconciliation Act (“COBRA”), to the extent permitted by law; (v) Sections 1981 through 1988 of Title 42 of the United States Code; (vi) The Uniformed Services Employment and Reemployment Rights Act; (vii) The Immigration Reform and Control Act; (viii) The Americans with Disabilities Act of 1990; (ix) The Family and Medical Leave Act, to the extent permitted by law; (x) The Equal Pay Act, to the extent permitted by law; (xi) The Washington Consumer Protection Act, RCW 19.86; (xii) The Washington Law Against Discrimination, as amended, RCW 49.60; (xiii) The Washington Minimum Wage Act, as amended, RCW 49.46; (xiv) The Washington Wage Payment Act, as amended, RCW 49.48; (xv) The Washington wage deduction/rebate statutes, as amended, RCW 49.52; (xvi) The Washington Family Leave Act, as amended, RCW 49.78; (xvii) The Washington Family Care Act, as amended, (xviii) RCW 49.12.265; (xix) The Washington Paid Sick Leave Law, RCW 49.46.200 210; (xx) Any provision of Title 49 of the Revised Code of Washington; (xxi) Any provision of Title 296 of the Washington Administrative Code; (xxii) The Industrial Welfare Act of Washington, RCW 49.12, as amended, to the extent permitted by law; (xxiii) Any claim alleging the exception to the Industrial Insurance Act of Washington, established by RCW 51.24.020, for injury inflicted with “deliberate intention”; (xxiv) Any claim based on federal, state or local law, rule, regulation or ordinance; (xxv) Any

claim for breach of contract or promise, express or implied; (xxvi) Any claim for breach of any term or condition of an employee handbook or policy manual, including any claim for breach of any promise of specific treatment in specific situations; (xxvii) Any common law claim of any kind; and (xxviii) Any basis for recovering costs, fees or other expenses, including attorneys' fees incurred in these matters.

b. As of the Effective Date, the Settlement and this Agreement will constitute a full and final settlement, release, and waiver by Plaintiff Andrew Westphal and all members of the Settlement Class of all Released Claims (as defined above in Section VI.1.q.).

3. Payment by EOH.

Subject to approval of the Settlement by the Superior Court, EOH agrees to deposit the Maximum Settlement Amount into a Qualified Settlement Fund ("QSF") set up by the Settlement Administrator for purposes of processing the Settlement and paying the Service Awards, the Settlement Administration Expenses Award, the Attorney's Fees and Costs Award, and the Settlement Awards. EOH will not be responsible for making any additional payments except as expressly set forth below, whether to the Settlement Class Members, to Plaintiff, to Class Counsel, to the Settlement Administrator, or otherwise (with the exception that EOH agrees to pay its share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes). By funding the Qualified Settlement Fund, EOH will fully discharge its financial obligations under this Agreement and shall have no further financial obligations under this Agreement, whether to the Settlement Class Members, to Plaintiff, to Class Counsel, to the Settlement Administrator, or otherwise (again with the exception that EOH agrees to pay its share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes).

4. Calculation of Settlement Awards.

a. Subject to approval by the Superior Court, the calculations of gross (pre-tax) Settlement Awards for Settlement Class Members will be made by the Settlement Administrator based on records that have been or will be submitted to the Settlement Administrator by EOH, which records are presumed to be accurate. EOH has provided or will provide data to Plaintiff's counsel and the Settlement Administrator reasonably necessary for the calculation of the Settlement Awards in the form of an Excel spreadsheet (or spreadsheets), which shall contain data regarding the number of hours worked by each Proposed Class Member during the Settlement Class Period. To the extent not already produced to Class Counsel and the Settlement Administrator, EOH shall provide the Excel spreadsheet(s) containing the foregoing data to Class Counsel and the Settlement Administrator within thirty (30) days after this Agreement is preliminarily approved by the Superior Court. Any data provided to Class Counsel or the Settlement Administrator pursuant to this Agreement shall be used solely for the purposes of administering this Settlement and not for any other purpose. Class Counsel and the Settlement Administrator shall maintain any data provided pursuant to this Agreement as private and confidential and shall not use or disclose such data to any persons or entities except as required by this Settlement, law or Court order.

b. The Settlement Administrator shall be responsible for calculating the gross amounts of the Settlement Awards for Settlement Class Members in conformity with this Agreement. Each Settlement Class Member shall receive a minimum settlement payment of

Twenty Dollars (\$20.00). The remaining monies from the Class Fund will be allocated to individual Settlement Class Members as follows: (i) Each Settlement Class Member's hours worked during the Settlement Class Period will be divided by the sum total of all Settlement Class Members' hours worked during the Settlement Class Period. This calculation will result in a percentage figure for each Settlement Class Member (the "Class Portion Percentage Figure"), which will then be multiplied by the Class Portion, with the resulting figure being paid to the Settlement Class Member; (ii) Each "front of house" Settlement Class Member's hours worked in a "front of house" position during the Settlement Class Period will be divided by the sum total of all "front of house" Settlement Class Members' hours worked during the Settlement Class Period. This calculation will result in a percentage figure for each "front of house" Settlement Class Member (the "Service Charge Portion Percentage Figure"), which will then be multiplied by the Service Charge Portion, with the resulting figure being paid to the "front of house" Settlement Class Member. The results of the foregoing calculations for each Settlement Class Member, in addition to the Twenty Dollar (\$20.00) minimum settlement payment, shall be referred to as a Settlement Award (or collectively, the Settlement Awards).

c. The Settlement Administrator shall provide Class Counsel and EOH with an electronic report setting forth the results of their calculation of the gross Settlement Awards for Settlement Class Members. EOH and the Class Counsel shall have ten (10) days after receiving this electronic report to review the Settlement Administrator's gross Settlement Award calculations for compliance with the terms of this Agreement and to submit any concerns in writing to the Settlement Administrator. Thereafter, the Parties shall confer within five (5) days in an attempt to resolve any disputes relating to the calculations of the gross amounts of Settlement Awards. If the Parties are unable to resolve any disputes about calculating the gross Settlement Awards pursuant to this Agreement, they shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding any disputed calculations of any Settlement Awards for any Settlement Class Members.

d. **Allocation of Settlement Awards Between Wages and Non-Wages.** Forty Percent (40%) of each Settlement Award will be treated as wages and subject to normal payroll tax withholdings and payments, and these amounts shall be reported to the taxing authorities and the Settlement Class Members on IRS Forms W-2. Sixty Percent (60%) of each Settlement Award will be treated as non-wages (penalties, enhancements, and prejudgment interest) on which there will be no tax withholding and for which IRS Forms 1099 (marked "Other Income") shall be issued to the taxing authorities and Settlement Class Members.

e. **Separate Payment of Employer-Side Payroll Taxes.** EOH will separately fund the payment of the required employer share of the payroll taxes associated with the W-2 payments made to Settlement Class Members (including, but not limited to, employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, or local requirements). The Settlement Administrator shall calculate this amount and provide the results of its calculations to counsel for EOH.

5. Attorney's Fees and Costs Award.

As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for an Attorney's Fees and Costs Award of no more than thirty percent (30%) of the Maximum Settlement Amount (i.e., Twenty Three Thousand, Two Hundred

and Fifty Dollars (\$23,250.00)), plus up to an additional Five Thousand Dollars (\$5,000.00) for actual litigation costs.

6. Service Award.

Subject to approval by the Superior Court, in addition to a Settlement Award computed as described above, Plaintiff Andrew Westphal shall receive a separate Service Award, which will be treated as non-wages, on which there will be no payroll tax withholdings and for which an IRS Form 1099-MISC (marked "Other Income") shall be issued to the taxing authorities and Plaintiff. Subject to approval by the Superior Court, the amount paid to Plaintiff Andrew Westphal for his service award shall be Five Thousand Dollars (\$5,000.00).

7. Settlement Administration.

a. The Settlement Administrator shall be responsible for mailing the Notice of Settlement to the Proposed Class, tracing undeliverable mailings, recording and tracking responses to the mailings to the Proposed Class, tracking and responding to any inquiries made by any member of the Proposed Class, reviewing disputes to its calculation of the Settlement Awards, and any other related tasks mutually agreed to by the Parties. The Settlement Administrator shall also be responsible for establishing a Qualified Settlement Fund ("QSF") pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering this Settlement, as well as issuing the necessary checks for all Settlement Awards, issuing all required tax documents (such as Forms W-2 and 1099-MISC), performing all related tax reporting to taxing authorities and to EOH, and issuing the Service Award, the Settlement Administration Expenses Award, and the Attorney's Fees and Costs Award.

b. The Settlement Administrator will perform the foregoing duties based on data provided by Class Counsel and EOH, which data shall be presumed to be correct. In addition to the data described in Section VI.4., above, EOH shall, within thirty (30) days after this Agreement is preliminarily approved by the Superior Court, provide the Settlement Administrator with an Excel spreadsheet containing the following information for each member of the Settlement Class: (i) name; (ii) last known address; (iii) last known telephone (if known and reasonably accessible); (iv) email address (if known and reasonably accessible); and (v) social security number. Other data will be provided, upon request from the Settlement Administrator, as reasonably necessary to complete their settlement administration duties under this Agreement. All such data shall be treated as private and confidential and the Settlement Administrator shall not use or disclose any such data to any persons or entities except as required by this Settlement, law or Court order.

c. The Settlement Administrator shall also have the responsibility to determine any Proposed Class Member's eligibility for a Settlement Award (i.e., to determine whether any Proposed Class Member is a Settlement Class Member). Each Proposed Class Member who does not submit a valid and timely request for exclusion will automatically be a Settlement Class Member and eligible to receive a Settlement Award. Within five (5) days after the Notice Deadline, the Settlement Administrator shall provide EOH and Class Counsel with (1) an electronic report setting forth the names and identities of all Proposed Class Members who submitted a valid and timely Exclusion Form in conformity with this Agreement; (2) an electronic report setting forth the names and identities of all Proposed Class Members who did not submit a

valid and timely letter requesting exclusion in conformity with this Agreement (“Exclusion Letter”); (3) copies of all Exclusion Letters returned or received; and (4) copies of all objections returned or received. EOH and Class Counsel shall be entitled to review the eligibility determinations made by the Settlement Administrator for compliance with the terms of this Agreement. The Settlement Administrator shall retain the originals of all Exclusion Letters returned, along with their envelopes, and objections received. EOH and Class Counsel shall have seven (7) days after receiving the electronic report and related documentation from the Settlement Administrator to challenge any Exclusion Letter and/or eligibility determination in writing directed to the Settlement Administrator. Within five (5) days after submitting such concerns to the Settlement Administrator, the Parties shall meet and confer in an attempt to resolve any disputes relating to the subject Exclusion Letters and/or eligibility determinations. In the event the Parties are unable to reach resolution on any disputes relating to the subject Exclusion Letters and/or eligibility determinations, the Parties shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding the subject Exclusion Letters and/or eligibility determinations. Thereafter, the Settlement Administrator shall provide the final results of its eligibility determinations to EOH and Class Counsel, which results will include the names of all Settlement Class Members and the names of all individuals who opted out of the Settlement.

d. In the event the number of Proposed Class Members who have timely requested exclusion from the Settlement exceeds seven and a half percent (7.5%) of the total number of Proposed Class Members (i.e., if 18 or more Proposed Class Members submit timely and valid Exclusion Letters, assuming the class size is and remains 227), EOH has the right, in its sole discretion, to terminate or not to terminate the Settlement. If EOH chooses to exercise this right, it shall give written notice to Class Counsel within ten (10) days after receiving the report from the Settlement Administrator required by Section VI.7.c., above. In the event that the Proposed Class contains seven and a half percent (7.5%) more Proposed Class Members, as of the hearing on Plaintiff’s motion for preliminary approval of the Settlement, than the 227 of which Class Counsel were informed in December 2022 (i.e., 245 or more total Proposed Class Members), then Plaintiff will have the right to void the Settlement unless EOH agrees to proportionately increase the Maximum Settlement Amount to account for those individuals.

e. As part of seeking the Superior Court’s final approval of this Settlement, Class Counsel will apply to the Superior Court for a Settlement Administration Expenses Award of no more than Seven Thousand Dollars (\$7,000.00). The costs, fees and expenses incurred by the Settlement Administrator in administering this Settlement shall be paid from the Settlement Administration Expenses Award approved by the Court.

8. Notice/Approval of Settlement Class Certification and Settlement Agreement.

As part of this Settlement, the Parties agree to the following procedures for obtaining preliminary Superior Court approval of the Settlement, certifying the Settlement Class, notifying the members of the Proposed Class, obtaining final Superior Court approval of the Settlement, and implementing payment of Settlement Awards to Settlement Class Members:

a. Class Counsel shall file a motion with the Superior Court (to be heard on the earliest date practicable when the Superior Court has availability) to obtain preliminary approval of the Settlement in conformity with this Agreement and authorizing the issuance of the Notice of Settlement to members of the Proposed Class.

b. For purposes of this Settlement, Class Counsel will ask the Superior Court to enter an order preliminarily certifying the Settlement Class, preliminarily approving the Settlement and this Agreement, approving Notice of Settlement to the Proposed Class, and setting a date for a Final Approval Hearing to determine whether the Court will grant final approval of the Settlement and this Agreement (the “Preliminary Approval Order”). Class Counsel shall provide EOH with a draft of the proposed motion for preliminary approval and Preliminary Approval Order for review and comment at least five (5) court days before the motion is filed. Plaintiff agrees to consider in good faith all comments of EOH on the draft. EOH will not oppose Plaintiff’s motion, so long as the motion for preliminary approval and Preliminary Approval Order are in conformity with this Agreement.

c. Subject to the Superior Court’s approval, Notice of the Settlement shall be provided using the following procedures:

(1) Within thirty-five (35) days of the date the Superior Court grants preliminary approval to the Settlement and issues its Preliminary Approval Order, the Settlement Administrator shall send the Notice of Settlement to all Proposed Class Members by mail.

(2) The Notice of Settlement shall provide that Proposed Class Members who do not opt out (i.e., who wish to become Settlement Class Members) and who wish to object to the Settlement must submit to the Settlement Administrator a written statement objecting to the Settlement. Such written statement must be postmarked or delivered to the Settlement Administrator on or before the Notice Deadline.

(3) The Notice of Settlement shall also provide that Proposed Class Members who wish to exclude themselves (i.e., opt out) from the Settlement must mail a letter to the Settlement Administrator requesting exclusion from the Settlement on or before the Notice Deadline. Proposed Class Members who fail to submit a valid and timely Exclusion Letter on or before the Notice Deadline shall be deemed Settlement Class Members and shall be bound by all terms of the Settlement and any Final Judgment entered in this Case if the Settlement is approved by the Superior Court, regardless of whether they have objected to the Settlement.

(4) The Notice of Settlement shall also advise Settlement Class Members that they need do nothing (other than not affirmatively opt out) in order to receive a Settlement Award.

d. The Parties agree that neither they nor their counsel will solicit or otherwise encourage any of the Proposed Class Members to opt out or object to the Settlement or to appeal from the Superior Court’s Final Judgment approving the Settlement.

e. Should any Notice of Settlement be returned as undeliverable without a forwarding address, the Settlement Administrator will perform a reasonable “skiptrace” search using the National Change of Address database to obtain an updated address and, if located, shall make a second attempt at mailing the Notice of Settlement. If such Notice of Settlement is again returned as undeliverable, no further attempts at delivery of the Notice of Settlement are required to be made. Notwithstanding the foregoing, the Settlement Administrator or Class Counsel may mail or email a Notice of Settlement and/or Exclusion Form to a Proposed Class Member at an address or email address obtained by other means if the Notice of Settlement is returned as

undeliverable or upon the Proposed Class Member's request for the same.

f. Within the later of twenty one (21) days after the Notice Deadline, or seven days following resolution of challenge as set forth in Section IV.7.c., above, Class Counsel will file with the Superior Court a supplemental memorandum in support of final approval of the Settlement to inform the Court of any Proposed Class Members who have opted out of the Settlement, to provide the Court with copies of all written objections received from any Proposed Class Member with copies of their envelopes, and to respond to any objections to the Settlement.

g. Subject to the Superior Court's availability and direction but no sooner than thirty (30) days after the Notice Deadline, a Final Approval Hearing shall be held for the Superior Court to determine whether to grant final approval of the Settlement, including Class Counsel's Attorney's Fees and Costs Award, the Settlement Administration Expenses Award, and the Service Award to the Plaintiff. If the Superior Court finally approves the Settlement, the Parties will promptly and jointly ask the Superior Court to enter a Final Judgment dismissing the Case with prejudice and without an award of attorney's fees, expenses or costs to any Party except as provided herein.

h. After entry of the Final Judgment, and subject to Rule 7.2 of the Washington Rules of Appellate Procedure, the Superior Court shall have continuing jurisdiction solely for the purposes of enforcement of the Settlement Agreement and addressing (a) settlement administration matters, and (b) such post-Final Judgment matters as may be appropriate under Court rules.

i. Within ten (10) business days after the Effective Date, EOH shall initiate a transfer of the Maximum Settlement Amount into the QSF. EOH also will transfer into the QSF an amount equal to the estimated employer share of the payroll taxes required on the W-2 payments made to Settlement Class Members (including employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, or local requirements) as estimated by the Settlement Administrator. Such payment shall be made by EOH upon the latter of ten (10) business days after the Effective Date or within five (5) business days after the Settlement Administrator provides its estimate of the employer-side payroll taxes. Thereafter, if there is any dispute relating to the amount needed for the employer share of required payroll taxes, the Parties and Settlement Administrator shall confer within five (5) days in an attempt to resolve this dispute. In the event they are unable to reach resolution of any such dispute, the Parties shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding the amount required for the employer share of payroll taxes. The QSF will hold all funds transferred by EOH pending the issuance of the Settlement Awards to Settlement Class Members. Until the date that EOH's funding of the QSF is due, EOH shall have sole and complete control over all such funds and shall have no obligation to segregate such funds or to place them in escrow or to otherwise earmark them before the funding deadline.

j. Within five (5) business days after the Maximum Settlement Amount is deposited into the QSF, the Settlement Administrator shall issue and mail checks for the Service Award, the Settlement Administration Expenses Award, and the Attorney's Fees and Costs Award to the respective recipients thereof. Within ten (10) business days after the Maximum Settlement Amount is deposited into the QSF, the Settlement Administrator shall issue and mail the Settlement

Award checks. Settlement Award checks for each Settlement Class Member shall include an amount for wages and a separate amount for non-wages (penalties, enhancements, and prejudgment interest). The Settlement Administrator shall withhold, and pay to the appropriate taxing authority(ies), all federal, Washington state, and local withholding taxes from each amount for wages, and shall issue appropriate IRS Forms W-2 for each amount for wages. The non-wages (penalties, enhancements, and prejudgment interest) amount shall not be subject to withholdings and shall be reported on an IRS Form 1099 (marked "Other Income") issued by the Settlement Administrator. Using the funds transferred into the QSF by EOH for the employer share of the payroll taxes required on the W-2 payments, the Settlement Administrator will also pay all of the required employer share of payroll taxes in connection with issuing the wage checks to Settlement Class Members, including the employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, and local requirements.

k. No later than one hundred sixty (160) days after the Settlement Administrator issues the Settlement Award checks, Class Counsel shall file a Satisfaction of Judgment confirming that the payments required by the Final Judgment have been made and that no further actions are needed to comply with the Final Judgment. This shall terminate the Court's jurisdiction over the Case.

l. Should any Settlement Award checks be returned as undeliverable without a forwarding address, the Settlement Administrator will perform a reasonable "skiptrace" search using the National Change of Address database to obtain an updated address and, if located, shall make a second attempt at mailing the Settlement Award Check. The Settlement Administrator shall mail any Settlement Class Member his or her Settlement Award check if he or she contacts the Settlement Administrator and provides a correct mailing address within ninety (90) days after the initial distribution of the Settlement Award checks. If contacted by a Settlement Class Member, EOH shall instruct the member to contact the Settlement Administrator or Class Counsel. No later than one hundred twenty (120) days after the initial distribution of the Settlement Award checks, the Settlement Administrator shall provide both Parties with an accounting indicating which funds have been distributed to Settlement Class Members and which, if any, checks to Settlement Class Members have not been negotiated by that time. At this same time, the Settlement Administrator shall also provide EOH with copies of all IRS Forms W-2 and IRS Forms 1099 documents issued in connection with the payment of the Settlement Awards, and any other tax documentations reasonably required by EOH. If any checks to Settlement Class Members have not been negotiated within one hundred twenty (120) days after distribution, the funds from those checks will be sent by the Settlement Administrator in the corresponding Settlement Class Member's name to the Unclaimed Property Fund for the State of Washington pursuant to the Unclaimed Property Act (RCW 63.29 et seq). EOH will not receive funds from any uncashed checks.

m. If the Superior Court does not enter an Order preliminarily or finally approving the Settlement, or if the Settlement does not become final for any other reason, this Agreement shall be null and void. In such case, the parties shall proceed in all respects as if this Agreement had not been executed. In the event an appeal is filed from the Superior Court's Final Judgment, or from any other appellate review that is sought prior to the Effective Date, funding and administration of the Settlement shall be stayed pending final resolution of the appeal or any other form of appellate review.

9. No Effect on Employee Benefits.

This Settlement, and any payments made under the Settlement to Settlement Class Members, shall have no effect on the eligibility for and/or calculation of employee benefits of any Settlement Class Members.

10. Miscellaneous Provisions.

a. The Parties agree to stay all further proceedings in this Case, except such proceedings as are necessary to implement and complete this Settlement and/or to implement this Agreement, pending the Final Approval Hearing to be conducted by the Superior Court and the Effective Date of the Settlement.

b. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

c. This Agreement constitutes the entire Agreement among these Parties. No representations, warranties or inducements have been made to any Party concerning this Agreement, other than the representations, warranties and covenants contained and memorialized in this Agreement and the documents it requires (such as the Notice of Settlement and Exclusion Form).

d. Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to enter into this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement this Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement this Settlement or this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement or this Agreement, then either Party may seek the Superior Court's assistance to resolve such disagreement.

e. This Agreement shall be binding upon, and shall inure to the benefit of, the successors of the Parties hereto, as previously defined.

f. All terms of this Agreement shall be governed by and interpreted according to the laws of the State of Washington.

g. In the event that one or more of the Parties institutes any legal action against any other party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or Parties shall be entitled to recover from the unsuccessful party or Parties reasonable attorneys' fees and costs, including expert witness fees and costs incurred in connection with any enforcement actions.

h. This Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, either by original signature, facsimile signature, or electronic DocuSign signature, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties.

i. Plaintiff and EOH believe that this is a fair, reasonable and adequate settlement, and have arrived at this Settlement through arm's-length negotiations, taking into account all relevant factors, present and potential.


j. Plaintiff's counsel and/or the Settlement Administrator may create a notice website with information about this Settlement after preliminary approval of this Settlement is obtained from the Superior Court, which notice website may include a copy of this Agreement and any other documents filed with the Superior Court.

[SIGNATURES ON FOLLOWING PAGE]

IT IS SO AGREED.

**COUNSEL FOR PLAINTIFF
ANDREW WESTPHAL AND
PROPOSED CLASS COUNSEL**

**LAW OFFICE OF TATIANA
HERNANDEZ, P.C.**

DocuSigned by:

DA3AFF0821E2411...
Tatiana Hernandez
Counsel for Named Plaintiff Andrew
Westphal and Proposed Class Counsel

Dated: 3/14/2023 | 1:09 PM PDT

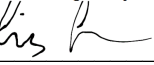
**COUNSEL FOR ELLIOTT'S
OYSTER HOUSE, LLC, AND E3 CO,
LP, DBA E3 RESTAURANT GROUP**

JACKSON LEWIS, P.C.

Peter Nohle
Counsel for Elliott's Oyster House, LLC, and E3
CO, LP dba E3 Restaurant Group

Dated: _____

ACKERMANN & TILAJEF, P.C.

DocuSigned by:

6F8C756DDE5444B
Craig Ackermann
Brian Denlinger
Counsel for Named Plaintiff Andrew
Westphal and Proposed Class Counsel

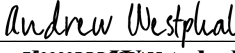
Dated: 3/14/2023 | 12:20 PM PDT

ELLIOTT'S OYSTER HOUSE, LLC

Name:
Title:

Dated: _____

**PLAINTIFF AND PROPOSED CLASS
REPRESENTATIVE**

DocuSigned by:

719829DD307455
Andrew Westphal, individually and on
behalf of the proposed Settlement Class

Dated: 3/21/2023 | 12:11 AM PDT

E3 CO, LP, DBA E3 RESTAURANT GROUP

Name:
Title:

Dated: _____

IT IS SO AGREED.

**COUNSEL FOR PLAINTIFF
ANDREW WESTPHAL AND
PROPOSED CLASS COUNSEL**

**LAW OFFICE OF TATIANA
HERNANDEZ, P.C.**

Tatiana Hernandez
Counsel for Named Plaintiff Andrew
Westphal and Proposed Class Counsel

Dated: _____

**COUNSEL FOR ELLIOTT'S
OYSTER HOUSE, LLC, AND E3 CO,
LP, DBA E3 RESTAURANT GROUP**

JACKSON LEWIS, P.C.



Peter Nohle
Counsel for Elliott's Oyster House, LLC, and E3
CO, LP dba E3 Restaurant Group

Dated: March 23, 2023

ACKERMANN & TILAJEF, P.C.

Craig Ackermann
Brian Denlinger
Counsel for Named Plaintiff Andrew
Westphal and Proposed Class Counsel

Dated: _____

ELLIOTT'S OYSTER HOUSE, LLC

James C. Rowe
Name: *James C. Rowe*
Title: *President/CEO*

Dated: 3/23/2023

**PLAINTIFF AND PROPOSED CLASS
REPRESENTATIVE**

Andrew Westphal, individually and on
behalf of the proposed Settlement Class

Dated: _____

E3 CO, LP, DBA E3 RESTAURANT GROUP

James C. Rowe
Name: *James C. Rowe*
Title: *President/CEO*

Dated: 3/23/2023

EXHIBIT A
NOTICE OF
SETTLEMENT

SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

*Andrew Westphal v. Elliott’s Oyster House, LLC, and E3 CO, LP dba E3
Restaurant Group
King County Superior Court Civil Case No. 22-2-00876-8 SEA*

— NOTICE OF SETTLEMENT —

A court authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you and you are not being sued. However, your legal rights are affected whether you act or not. Please read this notice carefully.

TO: All persons who, at any time between January 18, 2019, and December 31, 2019, resided in Washington State, were employed by Elliott’s Oyster House, LLC, and/or E3 CO, LP dba E3 Restaurant Group, and worked as a non-exempt, hourly restaurant worker at Elliott’s Oyster House in the State of Washington:

- A former employee brought claims against Elliott’s Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group (collectively, the “Company” or “EOH”) alleging that EOH: (1) failed to provide compliant rest breaks under Washington law; and (2) failed to properly disclose its automatic fees and/or service charges to customers and pay its employees all tips, automatic fees, and/or service charges it collected from customers. The Company strongly denies these claims. The parties have reached a proposed Class Action Settlement.
- EOH strongly denies any fault, wrongdoing, or liability. If the Parties had not reached a Settlement, EOH would have continued to vigorously defend against Plaintiff’s claims, including seeking a denial of class certification and a full defense verdict at trial. EOH agreed to this Settlement to avoid the risk, burden, and expense of further litigation, and as a means of making its employees whole for even any arguable claims relating to the lawsuit.
- The Class Action Settlement includes a total maximum settlement payment by EOH of \$77,500.00.
- **If you were employed by EOH and worked as a non-exempt hourly restaurant worker at Elliott’s Oyster House in the State of Washington between January 18, 2019, and December 31, 2019, you do not have to do anything to be eligible to receive a share of the settlement payment.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will be eligible to get a payment for your share of the Class Action Settlement. (You may need to provide the Settlement Administrator any updated contact information to ensure you receive a payment). You will give up rights relating to the legal claims in this Case.
ASK TO BE EXCLUDED	Get no payment. This is the only option that allows you to ever be a part of any other lawsuit against EOH with respect to the legal claims in this

	Case.
OBJECT	Write to the Court if you do not like the settlement and explain why. If the Settlement is approved, you will still receive a payment and you will give up rights relating to the legal claims in this Case.
GO TO A HEARING	Ask to speak in Court about the fairness of the Class Action Settlement. If the Settlement is approved, you will still receive a payment and you will give up rights relating to the legal claims in this Case.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this Case still has to decide whether to finally approve the Settlement. If the Court approves the Settlement, payments will be made after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this Notice?

EOH's records show that you were employed by EOH and worked as a non-exempt hourly restaurant worker at Elliott's Oyster House in the State of Washington between January 18, 2019, and December 31, 2019. The Court has allowed this Notice to be sent to you to inform you about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to finally approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to Settlement Class Members who do not affirmatively request to be excluded from the Settlement.

This Notice explains the Case, the Class Action Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. What is the Case about?

The Plaintiff, former employee Andrew Westphal, claims that EOH violated Washington State wage and hour laws by: (1) failing to provide compliant rest breaks under Washington law; and (2) failing to properly disclose its automatic fees and/or service charges to customers and failing to pay its employees all tips, automatic fees, and/or service charges it collected from customers. The Company strongly denies these claims. EOH has denied the Plaintiff's claims.

The Honorable Veronica Galvan, of the Superior Court for the State of Washington in and for King County, is overseeing this Class Action. The lawsuit is known as *Andrew Westphal v. Elliott's Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group*, King County Superior Court Civil Case No. 22-2-00876-8 SEA (the "Case").

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called a "Class Representative" sues on behalf of other people whom they believe have similar claims. The people together are a "Class" or "Class Members." The employee who sued, and who represents the Class, is called the Plaintiff (in this case, Andrew Westphal).

The person the Plaintiff sues (in this case EOH) is called the Defendant. In a class action, one

court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiff or EOH. Instead, both sides agreed to a Settlement. This allows the parties to avoid the cost of a trial, and the people affected will be entitled to compensation. The Class Representative and his attorneys think the Settlement is best for everyone in the Class.

WHO IS IN THE SETTLEMENT

5. How do I know whether I am part of the Settlement?

As part of the Settlement of the Case, the King County Superior Court has decided that everyone who fits the following description is a Class Member:

All individuals who resided in Washington State and who were employed by EOH as a non-exempt, hourly restaurant worker (including front of house and/or back of house positions) at an Elliott's Oyster House restaurant in Washington State at any time during the Settlement Class Period (January 18, 2019 through December 31, 2019).

If it is approved, the Settlement will cover all Settlement Class Members who have not timely and affirmatively excluded themselves from the Case. To be a part of and receive any money pursuant to the Settlement, Settlement Class Members need do nothing (other than refrain from affirmatively opting out of the Settlement).

THE TERMS OF THE SETTLEMENT

6. What claims are covered by the Settlement?

The Settlement will resolve all of the claims Settlement Class Members could have brought against EOH regarding: (1) an alleged failure to provide the rest breaks required by Washington law; and (2) an alleged failure to properly disclose automatic fees and/or service charges and/or to pay its employees all tips, automatic fees, and/or service charges to which they were entitled (collectively, the “Released Claims”). The Released Claims include any and all claims, whether known or unknown, that were brought or that could have been brought based on any facts alleged in the Case with respect to a failure to provide rest breaks and/or a failure to properly disclose automatic fees and/or pay its employees all tips and/or automatic fees to which they were entitled. The Released Claims specifically include, but are not limited to, any claims arising out of or relating to any alleged failure to properly disclose any “Service Charge[s]” (as that phrase is defined in RCW 49.46.160(2)(c)), any failure to properly pay or distribute any tips, automatic fees, or service charges, any alleged missed, interrupted, shortened, untimely, unpaid, and/or non-compliant rest breaks, and any attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary damages, and attorney’s fees and costs relating to any of the foregoing.

7. What are the basic terms of the Settlement?

Subject to Court approval, the essential terms of the Settlement are as follows:

EOH will pay a total of \$77,500 as part of the Settlement, apportioned as follows:

- **Class Fund:** EOH will pay \$37,250.00, which will be available for the payment of Settlement Awards to Settlement Class Members who do not timely opt out of this Settlement. The Class Fund is allocated as follows: (a) a Class Portion of one-third (.333) of the Class Fund, which shall be paid to all Settlement Class Members based on their pro rata number of hours worked during the Settlement Class Period; and (b) a Service Charge Portion of two-thirds (.667) of the Class Fund, which shall be paid only to the “front of house” Settlement Class Members (i.e., the Settlement Class Members who were employed in the position of server, bartender, server assistant, or any similar front of house position) based on their pro rata number of hours worked in a “front of house” position during the Settlement Class Period.
- **Service Award:** EOH will pay up to \$5,000.00 to Plaintiff and Class Representative Andrew Westphal as a service award in recognition of his efforts in prosecuting the Case.
- **Settlement Administration Expenses Award:** EOH will pay up to \$7,000 to the Settlement Administrator for the processing of the Settlement, including the expenses of providing notice of the Settlement to Settlement Class Members, handling the administration process, processing payments to Settlement Class Members, and handling tax reporting requirements.
- **Attorney’s Fees and Costs Award:** EOH will pay up to \$23,250.00 to Plaintiff’s attorney for the attorney’s fees award and up to \$5,000 for actual litigation costs they have incurred and will incur through final judgment in representing Plaintiff and the Settlement Class.

Monetary Relief: The amount available to the Settlement Class is intended to compensate Settlement Class Members for the wages and other compensation they allegedly lost and damages they are allegedly owed as a result of the practices alleged in the Case.

Distribution of Settlement Fund: Each Settlement Class Member who does not submit a valid and timely request for exclusion will automatically receive a settlement payment. Each Settlement Class Member who does not request exclusion shall receive a minimum settlement payment of \$20.00. The remaining monies from the \$37,250.00 class fund will be allocated to individual Settlement Class Members as follows: (i) Each Settlement Class Member’s hours worked during the Settlement Class Period will be divided by the sum total of all Settlement Class Members’ hours worked during the Settlement Class Period. This calculation will result in a percentage figure for each Settlement Class Member (the “Class Portion Percentage Figure”), which will then be multiplied by the Class Portion, with the resulting figure being paid to the Settlement Class Member; (ii) Each “front of house” Settlement Class Member’s hours worked in a “front of house” position during the Settlement Class Period will be divided by the sum total of all “front of house” Settlement Class Members’ hours worked during the Settlement Class Period. This calculation will result in a percentage figure for each “front of house” Settlement Class Member (the “Service Charge Portion Percentage Figure”), which will then be multiplied by the Service Charge Portion, with the resulting figure being paid to the “front of house” Settlement Class Member. The results of the foregoing calculations for each Settlement Class Member, in addition to the Twenty Dollar (\$20.00) minimum settlement payment, shall be referred to as a Settlement Award (or collectively, the Settlement Awards). Checks will be mailed to Settlement Class Members by the Settlement

Administrator. If any checks have not been negotiated within one hundred twenty (120) days after distribution, the funds from those checks will be sent in the corresponding Settlement Class Member's name to the Unclaimed Property Fund for the State of Washington pursuant to the Unclaimed Property Act (RCW 63.29 et seq). EOH will not receive funds from any uncashed checks.

Tax Treatment of Settlement Awards: Forty Percent (40%) of each Settlement Class Member's Settlement Award will be treated as wages and subject to normal tax withholding and shall be reported to the taxing authorities and the Settlement Class Member on an IRS Form W-2. Sixty Percent (60%) of each Settlement Class Member's Settlement Award will be treated as non-wages (a combination of penalties, enhancements, and prejudgment interest) on which there will be no tax withholding and for which an IRS Form 1099-MISC (marked "Other Income") shall be issued to the taxing authorities and the Settlement Class Member. In addition to the monies it is contributing to the Settlement Fund described above, EOH is also paying all required employer-paid taxes incurred as part of the Settlement. EOH's payment of these employer-paid taxes will not decrease the funds available to Settlement Class Members.

Release of Claims: Upon final approval by the Court, the Settlement Class and each Settlement Class Member who has not submitted a valid and timely written request to be excluded from the Settlement will irrevocably release all of the Released Claims against EOH relating to the period from January 18, 2019 to December 31, 2019. This Release specifically includes any claims arising out of or relating to: (1) any alleged failure to provide the rest breaks required by Washington law; (2) any alleged failure to properly disclose automatic fees and/or pay employees all tips and/or automatic fees to which they were entitled; and (3) any attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary damages, and attorney's fees and costs relating to any of the foregoing. This Release requires you to waive and precludes you from bringing any Released Claims against the named Defendants in the case, Elliott's Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group, as well as each of their past, current, or future predecessors, successors, and assigns, together with each of their respective parent companies, subsidiaries, related or affiliated companies, members, shareholders, owners, officers, directors, employees, agents, attorneys, and insurers, along with any other individual or entity who could be jointly or severally liable for any of the Released Claims.

Dismissal of Action: Upon final approval, the Court will enter a judgment of dismissal of the Case with prejudice, but shall retain jurisdiction to enforce the terms of the settlement.

HOW YOU CAN GET PAYMENT

8. How can I get a payment?

To get a payment, you need do nothing. As long as you do not submit a written request to be excluded from the Settlement, you will be a Settlement Class Member and will be entitled to payment.

9. When would I get my payment?

The Court will hold a hearing on [HEARING DATE] to decide whether to finally approve the settlement. If the King County Superior Court approves the settlement, the parties will then have to wait to see whether there is an appeal. This will take at least thirty (30) days and, if there is an

appeal, can take up to a year of more to resolve. In the event of an appeal, information regarding the appeal’s progress will be made available at [WEBSITE]. If there is no appeal, we expect payments will go out within approximately sixty (60) days of the Court’s final approval of the Settlement. Please be patient.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court has decided that lawyers from the Law Office of Tatiana Hernandez, P.C., and Ackermann & Tilajef, P.C. are qualified to represent you and all Settlement Class Members. These lawyers are called “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by our own lawyer, you may hire one at your own expense.

11. How will the lawyers be paid?

As indicated above, Class Counsel will seek payment of their attorney’s fees in the amount of \$23,250.00, and their litigation costs in an amount of up to \$5,000.00, each of which must be approved by the Court as part of the final approval of this Settlement. Class Counsel have been working on this case since approximately December 2021, and have not received any fees or reimbursements for the costs of the lawsuit.

EXCLUDING YOURSELF FROM THE SETTLEMENT

12. How do I exclude myself from the Settlement?

If you fit the definition of a Settlement Class Member and want to exclude yourself from the Settlement, you must request exclusion in writing by [NOTICE DEADLINE]. You may be excluded as a member of the class by submitting a written request stating, “I request that I be excluded from the Class in the case of Andrew Westphal v. Elliott’s Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group.” The request must include your name, address, and signature. You must mail a copy of the letter to the Settlement Administrator at the following address postmarked no later than [NOTICE DEADLINE]:

If you exclude yourself from the Settlement (i.e., opt out), you will not receive any payment from the Settlement. You will also not be entitled to object to the Settlement. If you exclude yourself, you will not be bound by the terms of the Settlement, including the Release described in Sections 6 and 7, above. This means you will retain the right at your own expense to pursue (or not pursue) any claims you may have against EOH.

OBJECTING TO THE SETTLEMENT

13. If I don’t like the Settlement, how do I tell the Court?

If you are a Settlement Class Member, have not excluded yourself from the Settlement, and do not like the Settlement or the fee request, you can object. You must do so in writing and you must

state the reasons why you think the Court should not approve the Settlement. If you object, be sure to include your name, address, and telephone number, the name of the Case (*Andrew Westphal v. Elliott's Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group*, King County Superior Court Civil Case No. 22-2-00876-8 SEA), the reasons you object to the Settlement, and a signature. You must mail a copy of the objection to the following address **postmarked no later than [OBJECTION DEADLINE]**:

THE COURT'S FINAL APPROVAL HEARING

14. When and where will the Court decide to approve the Settlement?

The Court will hold a Final Approval Hearing at [HEARING TIME] on [HEARING DATE], at the King County Superior Court, Department 21, Courtroom 3F, 516 Third Avenue Seattle, WA 98104.

If there are objections, the Court will consider them. Judge Veronica Galvan will listen to people who have asked to speak at the hearing (*see* Section 16). After the hearing, the Court will decide whether to finally approve the Settlement, including Class Counsel's request for attorney's fees, costs, Settlement Administration Expenses, and Service Award for the named Plaintiff. We do not know how long that decision will take.

15. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Veronica Galvan may have, but you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

16. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying it is your "Notice of Intention to Appear in *Andrew Westphal v. Elliott's Oyster House, LLC, and E3 CO, LP dba E3 Restaurant Group*, King County Superior Court Civil Case No. 22-2-00876-8 SEA." Be sure to include your name, address, phone number, and your signature. Your Notice of Intention to Appear must be **postmarked no later than [NOTICE DEADLINE]**, and be sent to the Court, Class Counsel, and Defense Counsel at the three addresses set forth below:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Hon. Veronica Galvan King County Superior Court 401 4th Ave. N, Room 2D Kent, WA 98032	Brian Denlinger Ackermann & Tilajef, P.C. 2602 North Proctor Street, Ste. 205 Tacoma, WA 98406	Peter H. Nohle Jackson Lewis P.C. 520 Pike Street, Suite 2300 Seattle, WA 98101

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing—that is, if you do not mail or deliver a timely written request to exclude yourself from the Settlement—you will be part of the Settlement Class and will be entitled to a share of the Settlement. You will also be bound by the terms of the Settlement, including the Release described in Sections 6 and 7, above.

GETTING MORE INFORMATION

18. Are there more details about the Settlement?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting the website [WEBSITE], which has a copy of the Settlement Agreement posted. Plaintiff's motion for final approval of the settlement agreement, including Class Counsel's request for attorney's fees, costs, Settlement Administration Expenses, and a Service Award for the named Plaintiff will be available for you to review on [DATE] at [WEBSITE URL].